



07-06-07

JFW/AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Sheldon

Serial No.: 10/713,811

Confirmation No.: 2575

Filed: November 14, 2003

For: High Tenacity and Toughness in
Metallocene Polypropylene Films

§ Atty. Dkt. No.: COS-819

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§ Group Art Unit: 1733

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§ Cust. No.: 25264

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§ Examiner: Zacharia

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Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Honorable Commissioner:

CERTIFICATE OF MAILING

37 CFR 1.10

I hereby certify that this correspondence is being deposited on the date below with the United States Postal Service as Express Mail, Mailing Label No. EQ 190571783 US, in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

7/15/2007
Date

Julia Green
Signature

REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer dated June 4, 2007.

Response to Examiner's Answer

Sheldon teaches blends of from 5 wt.% to 90 wt.% propylene impact copolymers (ICP) and isotactic polypropylene homopolymers formed from conventional catalysts, such as Ziegler-Natta or metallocene catalysts. *See*, page 2, paragraphs 21 and 28. *Sheldon* further teaches that the blended tapes exhibit better drawability than conventional propylene homopolymers. *See*, page 3, paragraph 37. The polymers of the examples were prepared with Ziegler-Natta catalysts.

The Examiner again states that "*Sheldon*... explicitly teach the use of metallocene catalysts" with overlapping tenacities and draw ratios. *See*, Examiner's Answer at page

7, paragraph 4. However, Appellants disagree. First, the polymers exhibiting the overlapping tenacities and draw ratios are blends of impact copolymers and homopolymers. Second, the homopolymer portion of the blends identified as exhibiting the draw ratios and tenacities (as shown in the Examples) are formed with Ziegler-Natta catalysts and not metallocene catalysts, as recited in the pending claims.

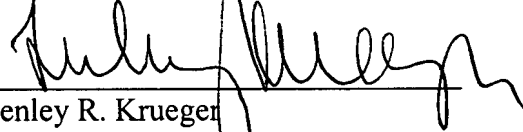
Appellants again assert that which is inherent in the prior art, if not known at the time of the invention, cannot form a proper basis for rejecting the claimed invention as obvious under Section 103. *See, In re Shetty*, 566 F.2d 81, 86, 195 U.S.P.Q. 753, 756-57 (C.C.P.A. 1977.) The Examiner has not demonstrated that one skilled in the art recognized that metallocene polypropylene films may be capable of producing a lower drop in tenacity during weaving than Ziegler-Natta films, as recited in the dependent claims. Rather, the Examiner has demonstrated the *Sheldon* recognized that blending propylene homopolymers with impact copolymers resulted in improved tape processability.

Further, the Examiner again is asserting that “the Appellants own specification indicates that a typical woven product produced from the inventive film has a tenacity within about 10% of the tenacity of the film product”. *See, Id.* at page 8, paragraph 4. The Federal Circuit has repeatedly warned that the requisite motivation must come from the prior art, not Applicant’s specification. *See, In re Lee*, 277 F.3d at 1343. As stated previously, The Examiner has not demonstrated that one skilled in the art recognized that metallocene polypropylene films may be capable of producing a lower drop in tenacity during weaving than Ziegler-Natta films, as recited in the dependent claims. Therefore, Appellants respectfully request reversal of the rejection.

Conclusion

In conclusion, the references of record, either alone or in combination, nowhere teach, show or suggest the features of the pending claims. Thus, Appellants respectfully request reversal of the Section 102(e) and 103(a) rejections of claims 1-2, 4-5, 9-14, 17-20 and 26-27.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tenley R. Krueger', written over a horizontal line.

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